

State of Kansas Air Energy Storage Act

Chapter 66.--PUBLIC UTILITIES Article 12.—MISCELLANEOUS PROVISIONS

66-1272. Compressed **air energy storage act.** K.S.A. 2009 Supp. 66-1272 through 66-1279, and amendments thereto, shall be known and may be cited as the compressed air energy storage act. **History:** L. 2009, ch. 141, § 32; May 28.

66-1273. **Same; definitions. As used in the compressed air energy storage act:**
(a) "Commission" means the state corporation commission.
(b) "Department" means the department of health and environment. **History:** L. 2009, ch. 141, § 33; May 28.

66-1274. **Same; injection of compressed air into storage wells; permits; requirements; rules and regulations.** (a) Within 18 months after the effective date of this act, the commission shall establish rules and regulations establishing requirements, procedures and standards for the safe and secure injection of compressed air into storage wells, which shall include maintenance of underground storage of compressed air. Such rules and regulations shall include, but not be limited to:

- (1) Site selection criteria;
- (2) design and development criteria;
- (3) operation criteria;
- (4) casing requirements;
- (5) monitoring and measurement requirements;
- (6) safety requirements, including public notification;
- (7) closure and abandonment requirements, including the financial requirements of subsection (d); and
- (8) long-term monitoring.

(b) The commission may adopt rules and regulations establishing fees for permitting, monitoring and inspecting operators of compressed air energy storage wells and underground storage. Fees collected by the commission under this section shall be remitted by the commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the compressed air energy storage fund.

(c) The commission or the commission's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the commission or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

(d) Any company or operator receiving a permit under the provisions of the compressed air energy storage act shall demonstrate annually to the commission evidence, satisfactory to the commission, that the permit holder has financial ability to cover the cost of closure of the permitted facility as required by the commission.

(e) The commission may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(f) Rules and regulations adopted under the compressed air energy storage act shall apply to any compressed air energy storage well, whether in existence on the effective date of this act or thereafter. **History:** L. 2009, ch. 141, § 34; May 28.

66-1275. Same; **rules and regulations for monitoring air emissions from compressed air energy storage wells and facilities.** Within 18 months after the effective date of this act, the department shall establish rules and regulations establishing requirements, procedures and standards for the monitoring of air emissions coming from compressed air energy storage wells and storage facilities to ensure the wells and facilities comply with the Kansas air quality act. **History:** L. 2009, ch. 141, § 35; May 28.

66-1276. Same; **memorandum of understanding between state corporation commission and department of health and environment concerning administration of act.** The commission and the department may enter into a memorandum of understanding concerning implementation of the requirements and responsibilities under the compressed air energy storage act. **History:** L. 2009, ch. 141, § 36; May 28

66-1277. Same; **violations; penalties; hearing; judicial review.** (a) The commission, upon a finding that a person has violated any provision of K.S.A. 2009 Supp. 66-1274, and amendments thereto, or rules and regulations adopted thereunder, may impose a penalty not to exceed \$10,000 per violation which shall constitute an economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after an opportunity for hearing upon the written order of the commission to the person who committed the violation. The order shall state the violation and the penalty to be imposed.

(c) Whenever the commission or the commission's duly authorized representative find that the soil or waters of the state are not being protected from pollution resulting from the storage of compressed air, the commission or the commission's duly authorized representative shall issue an order prohibiting such storage. Any person aggrieved by such order may request in writing, within 15 days after service of the order, a hearing on the order. Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the commission pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. **History:** L. 2009, ch. 141, § 37; May 28.

66-1278. Same; **agents of commission; right of ingress and egress; restoration of premises.** (a) In performing investigations or administrative functions relating to prevention of pollution of the soil or waters of the state, the commission or the commission's duly authorized representative may enter any property or facility which is subject to the provisions of K.S.A. 2009 Supp. 66-1274, and amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to air pollution, water pollution, soil pollution or public health or safety.

(b) The representatives of the commission shall have the right of ingress and egress upon any lands to clean up pollution from the storage of compressed air over which the commission has jurisdiction pursuant to K.S.A. 2009 Supp. 66-1274, and amendments thereto. Such representatives shall have the power to occupy such land if necessary to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well. Any representative entering upon any land to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well shall not be liable for any damages necessarily resulting therefrom, except damages to growing crops, livestock or improvements on the land. Upon completion of activities on such land, such representative shall restore the premises to the original contour and condition as nearly as practicable. **History:** L. 2009, ch. 141, § 38; May 28.

66-1279. Same; compressed air energy storage fund. (a)(1) There is hereby established in the state treasury the compressed air energy storage fund. Such fund shall be administered by the commission in accordance with the provisions of this section for the purpose of administering the provisions of the compressed air energy storage act.

(2) The commission shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the commission for the purposes of the compressed air energy storage act. Upon receipt of the remittance the state treasurer shall deposit the entire amount in the state treasury and credit it to the fund. The commission is authorized to receive from any private or governmental source any funds made available for the purposes of the compressed air energy storage act.

(3) All expenditures from the compressed air energy storage fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) The commission is authorized to use moneys from the compressed air energy storage fund to pay the cost of:

(1) All activities related to permitting activities, including, but not limited to, development and issuance of permits, compliance monitoring, inspections, well closures, underground storage closure, long-term monitoring and enforcement actions;

(2) review and witnessing of test procedures;

(3) review and witnessing of routine workover or repair procedures;

(4) investigation of violations, complaints, pollution and events affecting public health;

(5) design and review of remedial action plans;

(6) contracting for services needed to supplement the commission's staff expertise in facility investigations;

(7) consultation needed concerning remedial action at a permitted facility;

(8) mitigation of adverse environmental impacts;

(9) emergency or long-term remedial activities;

(10) legal costs, including expert witnesses, incurred in administration of the provisions of the compressed air energy storage act; and

(11) costs of program administration.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the compressed air energy storage fund interest earnings based on:

(1) The average daily balance of moneys in the compressed air energy storage fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding months. **History:** L. 2009, ch. 141, § 39; May 28.

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